

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil No. 18-_____

\$19,666.00 IN U.S. CURRENCY
Representing Puerto Rican Lottery Tickets

Defendant.

VERIFIED COMPLAINT FOR FORFEITURE IN REM

TO THE HONORABLE COURT:

COMES NOW, plaintiff, the United States of America, by and through its undersigned attorneys, Rosa Emilia Rodríguez-Vélez, United States Attorney for the District of Puerto Rico, Hector E. Ramirez-Carbó, Assistant United States Attorney, Chief, Civil Division, and Maritza González-Rivera, Assistant United States Attorney, and bring this complaint in accordance with Supplemental Rule G (2) of the Federal Rules of Civil Procedure, alleging as follows:

NATURE OF THE ACTION

1. This is a civil action in rem brought to enforce the provisions of 19 U.S.C. § 1305.

DEFENDANT IN REM

The defendant property seized by an officer of the United States Customs and Border Protection (“CBP”), consists of 8,733 pieces of prized Puerto Rico traditional lottery tickets identified with number: 47821 pertaining to the drawing of June 8, 2017, subsequently redeemed by the United States Customs and Border Protection for the total amount of \$19,666.00 in U.S. Currency.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over an action commenced by the United States pursuant to 28 U.S.C. § 1345; over an action for forfeiture pursuant to 28 U.S.C. § 1355; and over this particular action pursuant to 19 U.S.C. § 1305.

4. This Court has in rem jurisdiction over the defendant property pursuant to 28 U.S.C. § 1355(b)(1)(B) and 19 U.S.C. § 1401, (acts and omissions giving rise to the forfeiture occurred within the customs territory of the United States).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1)(B) and 19 U.S.C. § 1401 (acts and omissions giving rise to the forfeiture occurred within the customs territory of the United States) and § 1395 (A civil proceeding for the recovery of a pecuniary fine, penalty or forfeiture may be prosecuted in the district where it accrues or the defendant is found; (b) A civil proceeding for the forfeiture of property may be prosecuted in any district where such property is found; (c) A civil proceeding for the forfeiture of property seized outside any judicial district may be prosecuted in any district into which the property is brought.)

BASIS FOR THE FORFEITURE

6. This is a civil action in rem brought to enforce the provisions of 19 U.S.C. § 1305 (Immoral articles; importation prohibited.”)

FACTS

7. The facts and circumstances supporting the seizure and forfeiture of defendant property are contained in the Unsworn Declaration of the U.S. Virgin Islands Federal Task Force Officer to the Department of Homeland Security and Customs Enforcement, Homeland Security Investigations, Kenneth Small Jr. pursuant to 28 U.S.C. § 1746, attached hereto and incorporated as if fully stated herein.

CLAIM FOR RELIEF

WHEREFORE, the United States of America prays that a warrant of arrest for the defendant property be issued; that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that judgment be entered declaring the defendants properties condemned and forfeited to the United States of America for disposition according to law; and that the United States of America be granted such other and further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 17th day of April, 2018.

ROSA EMILIA RODRIGUEZ-VELEZ
United States Attorney

s/ Hector E. Ramirez-Carbo
Hector E. Ramirez-Carbo
Assistant U.S. Attorney
Chief, Civil Division
U.S.D.C. # 214902
350 Carlos Chardón Street
Torre Chardón
Hato Rey, Puerto Rico 00918
Tel. (787) 766-5656
Fax. (787) 771-4050
Hector.e.ramirez@usdoj.gov


OS/M Gonzalez
Maritza González-Rivera
Assistant U.S. Attorney
U.S.D.C. #208801
350 Carlos Chardón Street
Torre Chardón
Hato Rey, Puerto Rico 00918
Tel. (787) 766-5656
Fax. (787) 771 4050
Maritza.gonzalez@usdoj.gov

VERIFIED DECLARATION

I, Maritza González-Rivera, Assistant United States Attorney for the District of Puerto Rico, declare under penalty of perjury as provided by 28 U.S.C. § 1746, the following:

That the foregoing Complaint is based on reports and information furnished to me by the U. S. Customs and Border Protection and that everything contained therein is true and correct to the best of my knowledge and belief.

Executed in San Juan, Puerto Rico, this 17th day of April, 2018.



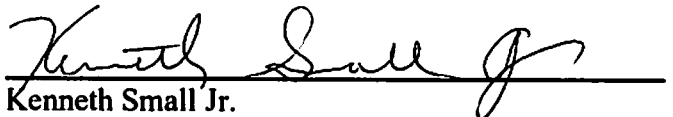
Maritza González-Rivera
Assistant U.S. Attorney

VERIFIED DECLARATION

I, Kenneth Small Jr., Federal Task Force Officer to the Department of Homeland Security and Customs Enforcement, Homeland Security Investigations, hereby declare as provided by 28 U.S.C. ' 1746, the following:

I have read the contents of the foregoing Complaint for Forfeiture in Rem and the attached affidavit thereto, and we find the same to be true and correct to the best of my knowledge and belief. I declare under penalty of perjury that the foregoing is true and correct.

Executed in San Juan, Puerto Rico, this 17th day of April, 2018.



Kenneth Small Jr.
Federal Task Force Officer, U.S.V.I.
Department of Homeland Security and Customs
Enforcement, Homeland Security Investigations

UNSWORN DECLARATION IN SUPPORT OF CIVIL FORFEITURE COMPLAINT

INTRODUCTION

Pursuant to 28 U.S.C. § 1746, I, Kenneth Small Jr, Task Force Officer of the U.S. Immigration and Customs Enforcement (“ICE”), Homeland Security Investigations (“HSI”), declare under penalty of perjury that the foregoing is true and correct:

PROFESSIONAL BACKGROUND

1. I am a Detective employed by the United States Virgin Islands Police Department (“VIPD”). I am assigned as a Federal Task Force Officer to the Department of Homeland Security, ICE-HSI in the Office of the Resident Agent in Charge for St. Thomas, Virgin Islands. I have been employed as a law enforcement officer with the VIPD since February of 2010, and I have been assigned as a Task Force Officer with HSI since August of 2015. I am a graduate of the United States Virgin Islands Police Academy, and have completed advanced courses in relation to criminal investigation. I have received training specific to HSI authorities and investigative jurisdiction by senior HSI Criminal Investigators as part of my Task Force Officer training.

2. My duties as an HSI Task Force Officer include, but are not limited to, investigating violations of the Immigration and Nationality Act, U.S. Customs’ laws, the Controlled Substances Act, and federal crimes contained within the United States Code.

3. I make the following statements based on information obtained through personal observations, statements from witnesses, information supplied to me by other law enforcement officers and information obtained through the use of law enforcement and immigration databases. Because this declaration is submitted for a limited purpose, I have not included the details of every aspect of this investigation.

ITEMS SUBJECT TO FORFEITURE

4. \$19,666.00 in U.S. Currency, representing 8,733 pieces of prized Puerto Rican traditional lottery tickets.

FACTS

5. On June 25, 2017, Federal Task Force Officer Kenneth Small of Homeland Security Investigations (HSI) was contacted via phone by Customs and Border Protection Officer (CBPO) Shawn Brady who informed him that the Transportation Security Administration (TSA) had detained a female native of Puerto Rico at the Cyril E. King Airport with over 300 sheets of lottery tickets. TFO Small traveled to the airport and met with CBPO Brady.

6. CBPO Brady stated that his supervisor had contacted him upon being contacted by the supervisor of the TSA that they had detained a female with lottery tickets. CBPO Brady stated that he and a colleague went to TSA and came upon Evelin Alejandra BURET detained by TSA. Also in TSA's possession was a small suitcase and an undetermined amount of Puerto Rico lottery tickets.

7. CBPO Brady stated that they escorted BURET from TSA to CBP secondary to perform an inspection of the bag and to obtain a binding declaration from BURET. Initially when asked if everything in the suitcase was hers, BURET stated that only the clothes in the bag were hers. When asked about the lottery tickets BURET stated that she was not aware of any lottery tickets. A short moment later though, BURET admitted to the CBP Officers that she was given the suitcase with a binder in it by a female in Puerto Rico and (who instructed her) to come to St. Thomas to give it to another female.

8. BURET then told the officers that the female in St. Thomas put the tickets in the bag and that her job was to take the tickets back to Puerto Rico. BURET stated that she was not being paid and that she was doing it as a favor. Upon inspection of the suitcase, CBP Officers discovered a total of 8,733 Puerto Rico lottery tickets. Special Agent Michael Kean and TFO Small met with BURET who confirmed everything that CBPO Brady had stated to TFO Small. BURET was then placed under arrest and transported to the Bureau of Corrections where she was detained pending her initial appearance in the District Court of the Virgin Islands. On June 26, 2017 the U.S. Attorney's Office dropped the charges against BURET and she was released later that day.

9. Federal law provides that transporting or sending or attempting to transport or send lottery tickets from the U.S. Virgin Islands to Puerto Rico is tantamount to importing the lottery tickets from a foreign country.

10. The 8,733 Puerto Rico traditional lottery tickets were subsequently determined to be winning tickets and were redeemed by CBP for \$19,666 in U.S. currency.


11. The statutory provisions pursuant to which the aforementioned items are subject to seizure and forfeiture are as follow:

- a. 19 U.S.C. § 1305 – Immoral articles; importation prohibited: All persons are prohibited from importing into the United States from any foreign country... or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles whether imported separately or contained in packages with other goods

entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the appropriate customs officer that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture...

12. Based on my training and experience, participation in other investigations, and the facts as set forth in this declaration, there is probable cause to believe that the 8,733 Puerto Rican lottery tickets were being imported from the U.S. Virgin Islands to Puerto Rico in violation of 19 U.S.C. § 1305 (Immoral articles; importation prohibited mentioned), and are therefore subject to forfeiture in accordance with 19 U.S.C. § 1305 (b).

I, Kenneth Small Jr, Task Force Officer of the ICE-HSI, do declare the above as provided by 28 U.S.C. § 1746.


Kenneth Small Jr, Task Force Officer
U.S. Department of Homeland Security
Homeland Security Investigations

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Maritza Gonzalez-Rivera, AUSA, 350 Carlos Chardon Ave., Suite 1201,
Hato Rey, PR 00918

DEFENDANTS

\$19,666.00 in U.S. Currency, representing Puerto Rican Lottery Tickets.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
19 U.S.C. 1305

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/17/2018

SIGNATURE OF ATTORNEY OF RECORD

s/Maritza Gonzalez-Rivera

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE


United States District Court for the District of Puerto Rico
CATEGORY SHEET

1. Title of Case (Name of first party on each side only)

US v. \$19,666.00 IN U.S. CURRENCY, REPRESENTING PUERTO RICAN LOTTERY TICKETS

2. Category in which case belongs: (See Local Rules)

☒ X

ORDINARY CIVIL CASE
SOCIAL SECURITY
BANK CASE
INJUNCTION

CIVIL FORFEITURE

3. Title and number, if any, of related cases (See Local Rules)

4. Has a prior action between the same parties and based on the same claim ever been filed in this Court?

☐ YES

☒ X

NO

5. Is this case required to be heard and determined by a District Court of three judges pursuant to Rule 28 U.S.C. 2284?

☐ YES

☒ X

NO

6. Does this case question the constitutionality of a state statute (FRCP 24)?

☐ YES

☒ X

NO

(Please Print)

USDC ATTORNEY'S ID NO.

USDC # 208801

ATTORNEY'S NAME:

MARITZA GONZALEZ-RIVERA

MAILING ADDRESS:

TORRE CHARDON, SUITE 1201, 350 CARLOS CHARDON AVE

HATO REY PR

ZIP CODE

00918

TELEPHONE NO.

787-766-5656